

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

Brandi N. Mathis,

**ENTERED**

MAR 03 2003

**K. E. P.**

Debtor.

C/A No. 02-14636-W

**SUPPLEMENTAL ORDER**

Chapter 7

**FILED**

Of clock & min

MAR 03 2003

BRENDA K. ARGOE, CLERK  
United States Bankruptcy Court  
Columbia, South Carolina (11)

THIS MATTER comes before the Court on the Motion to Avoid Lien pursuant to 11 U.S.C. §522(f) (the "Motion") filed by of Brandi N. Mathis ("Debtor"). American General Finance filed two Objections to the Motion, and the Court held a hearing on the matter on February 20, 2003. No appearance was made by either Debtor or American General Finance or by their respective counsel, Paul Held and John Pincelli; therefore, the Motion was denied.

The failure of some counsel to attend hearings, particularly hearings in divisions that require counsel to travel from another division, has been a recurring problem plaguing this Court for several years. It is a particular problem in consumer cases where the dollar amount in controversy may not be deemed significant by counsel. This Court has attempted to eliminate unnecessary costs and inconvenience to parties and its counsel by inviting the timely submission of settlement orders or withdrawals prior to the hearing in order to remove matters from its hearing calendar. In instances of extreme difficulty, the Court allows substitute counsel to appear and announce the resolution or present the settlement order. When parties fail to use these measures offered by the Court and then fail to appear at scheduled and duly noticed hearings, judicial resources are wasted. In addition to the usual time and efforts undertaken by the Court staff to prepare for the hearing, when parties fail to appear, the Court staff must, after the hearing, inquire with counsel about the status of the matter or search its voluminous records to determine if a settlement order or withdrawal was previously submitted.

Once a matter is set for hearing, it will be called for consideration unless the Court removes it from the calendar under above referenced established procedures prior to the hearing. When a matter remains on the calendar, the Court expects the appropriate parties to appear at the hearing prepared to make their arguments and proceed with the matter or announce a resolution. In instances where parties fail to appear and the Court has not been advised of a matter's status prior to the hearing, the Court will not search its records to determine whether a form order or proposed order should be entered. The Court handles a record-setting caseload and does not have the time or the resources to perform an individual review of a case file when counsel have, by all accounts, failed in their responsibilities.

In the past, it appears that some counsel have purposefully decided not to attend hearings and instead elected to subsequently submit a settlement order. In essence, counsel have attempted to circumvent the requirement of attendance at hearings and hoped to slip such orders through the Clerk's office for entry by the Court without offering any explanation for failing to appear at a scheduled hearing or to present a settlement order or withdrawal previously. As a result of this problem, the Court has been forced to develop a policy of dismissing matters with prejudice, which requires the parties to explain to the Court why they failed to appear before further relief or settlement of the subject motion will be granted, as the only effective means of identifying this abuse. Nevertheless, certain counsel in this District continue to regularly fail to appear at scheduled hearings occasioned by pleadings they filed.

The Court notes that counsel in this matter illustrate the problems this Order lists. In this case, they failed to appear at the scheduled hearing. Upon inquiry initiated by the Court after the hearing, they indicated that the matter was settled prior to the hearing and that Mr. Pincelli would submit a settlement order no later than February 25, 2003. According to the Clerk of Court, no such

order was submitted as of February 25, 2003 at 4:30 p.m.; therefore, the Court denied the Motion with prejudice by separate order.

This Order should serve to caution these counsel specifically and other members of the bar in this District generally that the regular failure to appear at scheduled hearings or to submit settlement orders or withdrawals or otherwise effectively communicate the resolution of matters wastes judicial resources and creates a significant burden on the Court and case administration system in this District. This waste cannot continue and will no longer be tolerated. This Order places the Bar on notice. If counsel practices in such a manner whereby hearings are unattended and settlement orders or withdrawals are not timely filed, this manner of practice will expose counsel to sanctions and threaten counsel's ability to practice in and appear before this Court.<sup>1</sup>

**AND IT IS SO ORDERED.**

Columbia, South Carolina

March 3, 2003.

  
UNITED STATES BANKRUPTCY JUDGE

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<sup>1</sup> This Order does not address instances where counsel appear at the hearing and the Court grants permission to subsequently submit an order.